



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Brent Jackson, Chairman
The Honorable Ruth Samuelson, Co-Chairman
The Honorable Mike Hager, Co-Chairman

JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY
The Honorable Bob Rucho, Co-Chairman
The Honorable Mike Hager, Co-Chairman

FROM: Jim Womack
Chairman of the North Carolina Mining and Energy Commission

Tracy Davis
Director of the Division of Energy, Mineral, and Land Resources

SUBJECT: Quarterly Report on Activities Conducted Pursuant to S.L. 2012-143

DATE: July 1, 2014

Pursuant to Session Law 2012-143, the North Carolina Mining and Energy Commission and the Division of Energy, Mineral, and Land Resources shall submit to the Environmental Review Commission and the Joint Legislative Commission on Energy Policy a report on activities conducted and progress made on a quarterly basis. Please consider the Quarterly Report on Activities Conducted Pursuant to S.L. 2012-143 attached as the formal submission of this report.

If you have any questions or need additional information, please contact me by phone at (919) 707-9201 or via e-mail at Tracy.Davis@ncdenr.gov.

cc: Mitch Gillespie, Assistant Secretary for the Environment
Neal Robbins, Director of Legislative Affairs
Carr McLamb, Deputy Director of Legislative Affairs
Tracy Davis, Director, Division of Energy, Mineral, and Land Resources
Brad Atkinson, Energy Section Chief, Division of Energy, Mineral, and Land Resources
Walt Haven, Oil and Gas Management Program Supervisor

**N.C. Mining and Energy Commission
And Department of Environment and Natural Resources
Quarterly Report on Activities Conducted Pursuant to S.L. 2012-143
To the Joint Legislative Commission on Energy Policy
And the Environmental Review Commission
July 1, 2014**

Session Law 2012-143, the Clean Energy and Economic Security Act, was ratified on July 2, 2012 and reconstituted the North Carolina Mining Commission as the North Carolina Mining and Energy Commission. The Act directs the Mining and Energy Commission (MEC) to establish a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments involved for that purpose. The Act directs the Commission to submit quarterly written reports on the Commission's operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission (Section 1.(h)). The Department is also required to report on the progress in developing and adopting the rules required to be adopted by S.L. 2012-143. The quarterly reports shall include recommendations on changes required to existing rules and statutes and any other findings or recommendations necessary for the implementation of the Act (Section 2.(m)). This report satisfies both of these reporting requirements for the April through June 2014 timeframe.

Activities for each of the MEC Committees for this quarter are summarized below:

The **Administration of Oil and Gas Committee** convened on April 3, 2014 and deliberated, approved, and formally passed the following draft rules to the Rules Committee:

- Draft Financial Assurance rules, which establish requirements for financial assurance related to well plugging and abandonment and site reclamation;
- Draft Reclamation rules, which address requirements for final land surface restoration; and
- Draft Drilling Unit rules, which establish standards for combining contiguous properties into oil or gas drilling units.

No other Administration of Oil and Gas Committee meetings were held during this quarter due to this Committee's completion of initial rule assignments.

The **Environmental Standards Committee** did not meet during this quarter due to its completion of initial rule assignments.

The **Water and Waste Management Committee** did not meet during this quarter due to its completion of initial rule assignments.

The **Rules Committee** convened on April 3, 2014 and extended its discussions into April 4, 2014. During this meeting, the Committee deliberated, approved, and formally passed the draft Financial Assurance, draft Reclamation, and the draft Drilling Unit rules to the Mining and Energy Commission. The Rules Committee also deliberated and approved the Draft Permitting rules setting requirements for an oil or gas operator to apply for and obtain a permit to drill an oil or gas well. Finally, the Committee began discussions to consider the draft Administrative Rule Set, to establish requirements for MEC functional procedures as delineated under the following rule subsets:

- Draft Civil Penalty Rule, for assessing fines and handling Attorney General referrals;

- Draft Declaratory Ruling Rule allowing for the MEC to address requests to reconsider interpretation or application of oil and gas rules;
- Draft Enforcement Rule, for issuing Notices of Violation, assessing penalties, permit suspensions or revocations, etc.;
- Draft Hearings Rule, for holding public hearings and for designating hearing officers;
- Inspections Rule, for allowing DENR to inspect well sites and related records;
- Draft Petition for Rule Making Rule, for handling requests to the MEC for the development of new rules or modifying existing rules; and
- Draft Variance Rule, for the requesting and granting of variances to oil and gas rule requirements.

The final meeting of the Rules Committee occurred on April 15, 2014, wherein Committee members approved the draft Administrative Rule Set and formally passed it to the MEC.

The **Mining Committee** did not meet during this quarter.

Study Groups of the Mining and Energy Commission

Study Groups did not meet during this quarter. However, the **Funding Levels and Potential Funding Sources Study Group** submitted the addendum to its initial October 1, 2013 report to the Legislature on April 1, 2014. The Study Group provided the addendum in response to Session Law 2013-365, which required the Mining and Energy Commission to "...formulate recommendations for appropriate levels of funding that should be maintained to address emergency events associated with oil and gas exploration, including sufficient funding for emergency preparation, emergency response, emergency environmental protection, or mitigation associated with a release of liquid hydrocarbons or associated fluids directly related to onshore energy exploration, development, production, or transmission." As a result of this charge, the Study Group considered and developed recommendations for the following matters:

- Funding for emergency response operations, specifically to address well blowouts; and
- Funding for long-term contaminant release mitigation.

The Funding Levels and Potential Funding Sources Study Group researched legal agreements between oil and gas operators and well blowout mitigation companies, financial assurance strategies, and the environmental response and contaminant mitigation programs currently operating within the NC Division of Waste Management. Recommendations include requirements for oil and gas operators to maintain contracts with well blowout and mitigation contractors, as well as providing funding via severance taxes to the Division of Waste Management.

The **Mining and Energy Commission** held three meetings during this quarter. During the January 14, 2014 meeting, the Commission deliberated and passed the following draft rule sets and assigned them to staff for internal completion:

- Draft Drilling Unit Rule;
- Draft Reclamation Rule;
- Draft Financial Assurance Rule;
- Draft Well Stimulation Rule;
- Draft Permitting Rule;
- Draft Waste Management Rule; and
- Draft Administrative Rules.

The next meeting of the Mining and Energy Commission occurred on May 15, 2014 and extended through May 16, 2014. During this meeting, the Commission accepted and deliberated the draft 15A NCAC 05H "Oil and Gas Conservation" Rules, which constituted the compilation of all draft rules. Commissioners provided feedback which staff used to update the draft rule bundle for the June 5 and 6, 2014 meeting.

The final meeting of the Mining and Energy Commission occurred on June 5, 2014 and extended through June 6, 2014. Commissioners continued deliberation of the draft 15A NCAC 05H Rules, which included modifying a few of the rules to comply with the Energy Modernization Act, Session Law 2014-4, which was signed into law by the Governor just two days earlier- on June 4, 2014. The MEC voted to approve the Draft Oil and Gas Conservation Rules for release to the NC Register and submission for public comment, pending staff edits based on Commission input. On completing its rulemaking business, the MEC voted its new slate of officers for 2014-15. Dr. Vikram Rao was selected by acclamation to serve as Chairman of the MEC and Ms. Amy Pickle was selected by acclamation to serve as Vice Chair of the commission. Terms of office for both will begin on August 1, 2014 and end with the statutory termination of the MEC on July 31, 2015.

The Division of Energy, Mineral and Land Resources (DEMLR) Oil and Gas Program personnel completed rule edits and have submitted 15A NCAC 05H to the Office of Administrative Hearings for publication in the NC Register and for solicitation of public comment.

MEC Commissioners continue to participate in local and regional education and outreach programs, in addition to providing information briefings to the Legislature. Specific activities for this quarter included:

- April 1, 2014: MEC Chairman James Womack gave a presentation at the Joint Legislative Commission on Energy Policy, providing a general update on MEC rule development timeline and upcoming milestones;
- April 17, 2014: MEC Chairman James Womack presented an overview of rulemaking and the prospects for shale-derived energy development to the Advanced Energy Organization during a retreat in Duck, NC.
- April 22, 2014: Commissioners Dr. Kenneth Taylor, Dr. Vikram Rao, and Ms. Jane Lewis-Raymond participated on the "Oil and Gas Exploration and Development" panel for the annual North Carolina Sustainable Energy Conference in Raleigh, NC;
- April 22, 2014: MEC Chairman James Womack, along with Commissioners Ms. Amy Pickle, Dr. Kenneth Taylor, and Dr. Ray Covington participated on the "Oil and Gas Rule Development and Statutory Considerations" panel for the annual North Carolina Sustainable Energy Conference in Raleigh, NC;
- April 24, 2014: Commissioner and State Geologist Dr. Kenneth Taylor provided a presentation at the NC Emergency Operations Center to the Hazmat Regional Response Team Advisory Council. Discussion topics included well stimulation, chemical disclosure, and emergency response notification requirements as delineated within the draft Oil and Gas rules; and
- May 8, 2014: MEC Chairman James Womack made a presentation on shale energy rulemaking and development to the Anderson Creek Owners' Association in southern Harnett County.

DEMLR staff also participated in local and regional education and outreach programs. On April 26, 2014, staff provided presentations on North Carolina geology, hydrocarbon resources, and the current progress of rule development to members at the Moravian Environmental Stewardship Conference's weekend retreat in Laurel Springs, NC. Staff also participated in as

both a moderator and in a panel member role along with Commissioners during the April 22-23, 2014 North Carolina Sustainable Energy Conference in Raleigh.

Oil and Gas Program personnel continue to assist the North Carolina Geological Survey (NCGS) in assessing hydrocarbon potential and have helped with rock sample processing, data compilation and plotting, and the technical review of professional conference posters. Additionally, staff teamed with NCGS to set up a booth to advertise North Carolina resources and to network with industry professionals during the North American Prospect Expo in Pittsburgh, PA from April 9-11, 2014.

Additional information about the MEC, including agendas, meeting minutes and audio recordings of meetings, can be found at the Commission's website: <http://portal.ncdenr.org/web/mining-and-energy-commission/>. The Department continues to manage this website and to share information about the activities of the MEC with the public. The website lists meeting agendas, meeting minutes, PowerPoint presentations from meetings, contact information for MEC members, and other information. A listserv is also available for individuals who would like to receive updates on the MEC and changes to the website. To sign up for the listserv, visit <http://lists.ncmail.net/mailman/listinfo/denr.shale.gas>.

MEC Appointments

At the end of June 2014, Commissioner Charles Holbrook's term on the MEC will expire. He has been a vitally important oil and gas geologist whose leadership on the Administration of Oil and Gas Committee was instrumental in the commission completing its first set of MEC rules. Unfortunately, Mr. Holbrook is not seeking reappointment. Speaker Tillis' office is in the process of naming a replacement for him by the end of the month.

Likewise, Mr. Ivan "Tex" Gilmore's term on the MEC expires at the end of June, 2014. President Pro Tem of the Senate Berger is in the process of reappointing Mr. Gilmore, and we anticipate completion of that action by the end of June.

Dr. Marva Price's is similarly scheduled to complete her term on the MEC at the end of June 2014. She has indicated her willingness to continue serving the commission as the Governor's appointed representative of the Public Health Commission. In coordination with the Governor's office, it appears they do not have an immediate replacement for Dr. Price, so she will continue serving the MEC on a month-to-month basis until or unless a replacement is named.

Forecast Activities for Upcoming Quarter

Full MEC Rules Subchapter to be published in NC Register on July 15, 2014

Public Comment Period for MEC Rules- July 15, 2014 to September 15, 2014

Trip to Visit Marcellus Shale Drilling Sites by Selected MEC members (late July 2014)

August 8, 2014- Full MEC Meeting

Public Hearings on Full MEC Rules Subchapter

- August 20 - 10am to 2pm at NCSU's McKimmon Center, Raleigh, NC
- August 22 - 5pm to 9pm at Wicker Civic Center in Sanford, NC
- August 25 - 5pm to 9pm at Rockingham County High School in Wentworth, NC

Figure 1 reflects current committee and study group members, as well as primary staff contacts for each committee and study group.

Committee	Chair/Vice Chair	Other Members	Primary DENR Staff
Mining	Tex Gilmore	George Howard Amy Pickle Dr. Marva Price Dr. Robert Mensah-Biney E.O. Ferrell Dr. Ray Covington	Janet Boyer
Civil Penalty Remissions	Charlotte Mitchell	Jane Lewis-Raymond Jim Womack Dr. Robert Mensah-Biney Charles Taylor	Walt Haven
Environmental Standards	George Howard Dr. Ray Covington	Dr. Kenneth Taylor Charlotte Mitchell Amy Pickle Dr. Marva Price Dr. Vikram Rao	Walt Haven (Ryan Channell)
Water & Waste Management	Dr. Vikram Rao Charlotte Mitchell	Dr. Kenneth Taylor Charles Holbrook Ivan "Tex" Gilmore Amy Pickle	Katherine Marciniak
Administration of Oil & Gas	Charles Holbrook Jane Lewis-Raymond	Dr. Vikram Rao Dr. Ray Covington E.O. Ferrell Ivan "Tex" Gilmore Dr. Kenneth Taylor	Ryan Channell (Walt Haven)
Rules	Amy Pickle	Charlotte Mitchell George Howard Charles Holbrook Jane Lewis-Raymond Dr. Vikram Rao	Robert Josey (Walt Haven)
Study Group	Director	Other Members	Primary DENR Staff
Funding Levels and Potential Funding Sources	Jane Lewis-Raymond	Jim Womack Dr. Vikram Rao George Howard	Walt Haven (Katherine Marciniak)
Local Government Regulation	Charles Taylor Dr. Marva Price	Jim Womack Charles Holbrook	Walt Haven
Compulsory Pooling	Dr. Ray Covington	Jim Womack Charles Holbrook Charlotte Mitchell	Walt Haven
Coordinated Permitting Study Group	Dr. Kenneth Taylor	Jim Womack Dr. Ray Covington Dr. Vikram Rao Charles Holbrook George Howard	Walt Haven
Protection of Trade Secrets and Proprietary Information Study Group	Jim Womack	Amy Pickle Jane Lewis-Raymond	Ryan Channell

Figure 1. Commissioner responsibility and primary staff assignments.